



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 960-00

16 May 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that the characterization of his discharge be changed.

2. The Board, consisting of Messrs. Beckett, Geisler, and Zsalman, reviewed Petitioner's allegations of error and injustice on 10 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 29 August 1941 at the age of 18. During his period of service, Petitioner was assigned to Fighter Squadron Two (VF-2) and was serving board the USS Lexington when it sank during the Battle of the Coral Sea.

e. During his enlistment, Petitioner was convicted twice by summary court-martial (SCM) of two periods of unauthorized absence totalling 31 days. As a result of his second SCM, he was sentenced to a bad conduct discharge (BCD), which was suspended for six months. However, Petitioner then received captain's mast for absence from his appointed place of duty and missing draft. Subsequently, the suspension was vacated.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board notes Petitioner's misconduct and does not condone his infractions. However, the Board also notes Petitioner's youth and immaturity and limited formal education. The Board is also aware of Petitioner's combat service aboard the USS Lexington. Further, the suspension of the BCD was vacated based on a very minor offense. Even his other offenses, two UAs totalling 31 days, are not terribly serious and would not ordinarily result in a BCD. Based on the foregoing, the Board concludes that no useful purpose is served by continuing to show that Petitioner received a BCD, and that recharacterization of his service to a general discharge is appropriate.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge on 28 May 1943 vice the BCD actually issued on that date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 10 February 2000.

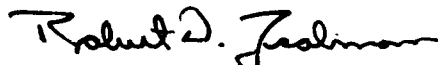
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
For W. DEAN PFEIFFER  
Executive Director